

REMARKS

Claims 1-27 are pending in the present application. Claims 1-5, and 7-27 were rejected under 35 U.S.C. §102(a) as being unpatentable over Leiter, U.S. Patent No. 5,022,744 in view of Pierrat, U.S. Patent No. 6,023,328. Claim 6 was rejected under 35 U.S.C. §103(a) as being unpatentable over Leiter in view of Pierrat, and further in view of Weiss, U.S. Patent App. Pub. No. 2003/0011910 A1.

The claims have now been amended. Reconsideration of the application is respectfully requested.

Amendment to the independent claims

Independent claims 1 and 19 have now been amended so as to respectively recite a microscope and a method including “concurrently control[ing] the control device [of the light source] and the spectral correction device so that, upon a change in the numerical aperture, both a light flux through the illuminating optical system and a spectral intensity distribution of light directed onto the specimen remain substantially unchanged.” Support for the amendment may be found, for example, at paragraphs 0029-0031 of the present specification, and in Fig. 1.

Rejections under 35 U.S.C. §103(a)

Claims 1-5 and 7-27 were rejected under 35 U.S.C. §102(a) as being unpatentable over Leiter in view of Pierrat. Claim 6 was rejected under 35 U.S.C. §103(a) as being unpatentable over Leiter in view of Pierrat, and further in view of Weiss.

Independent claims 1 and 19, as amended recite “concurrently control[ing] the control device [of the light source] and the spectral correction device so that, upon a change in the numerical aperture, both a light flux through the illuminating optical system and a spectral intensity distribution of light directed onto the specimen remain substantially unchanged.” It is respectfully submitted that a combination of Leiter and Pierrat, to the extent proper (and it is respectfully submitted that such a combination would not be proper as Pierrat has nothing to do with microscopes and in fact teaches away from using a microscope--see Pierrat, col. 1, lines 24-62), would not teach or suggest these features now recited in claims 1 and 19. In contrast, Pierrat merely adjusts optical parameters to maintain a

spatial intensity profile. See Pierrat, col. 4, lines 49-65. Pierrat has nothing to do with maintaining a spectral intensity distribution of light directed onto a specimen, and indeed appears to provide illumination light of only a single wavelength ("the wavelength of the light source"). See Pierrat, col. 4, lines 47-48. Regarding Leiter, that system merely opens or closes a diaphragm 25 so as to change an intensity of illumination to compensate for insertion of a filter into the illumination beam path. See Leiter, col. 3, line 65 to col. 4, line 3. Leiter therefore also does not maintain a spectral intensity distribution of light directed onto a specimen unchanged, as recited. Moreover, as indicated by the Examiner (see Office Action dated September 1, 2006, at page 3, lines 3-4), Leiter does not teach controlling the numerical aperture and the light source. In any event, neither Leiter nor Pierrat provide any teaching or suggestion to concurrently control a light source and a spectral correction device so that, upon a change in the numerical aperture, both a light flux through the illuminating optical system and a spectral intensity distribution of light directed onto a specimen remain substantially unchanged, as recited in claims 1 and 19. Thus, even if Leiter and Pierrat were to be combined, such a combination could not teach or suggest all the features of independent claims 1 and 19, nor any of their dependent claims.

Regarding dependent claim 6, Weiss does not cure the deficiencies of Leiter and Pierrat, so a combination of these references could not render claims 6 unpatentable.

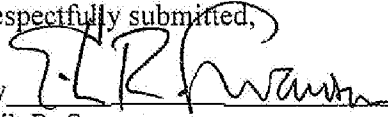
Withdrawal of the rejection of claims 1-5 and 7-27 under 35 U.S.C. §103(a) based on a combination of Leiter with Pierrat, and the rejection of claim 6 under 35 U.S.C. §103(a) based on a combination of Leiter with Pierrat and Weiss, is respectfully requested.

CONCLUSION

It is respectfully submitted that the application is now in condition for allowance.

Dated: January 3, 2007

Respectfully submitted,

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